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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,910	01/26/2004	Michael K. Bugenhagen	2487	2638
28004	7590	12/11/2007		
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OVERLAND PARK, KS 66251-2100			ART UNIT	PAPER NUMBER
			2619	
			MAIL DATE	DELIVERY MODE
			12/11/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/764,910	Applicant(s) BUGENHAGEN ET AL.	
	Examiner Man Phan	Art Unit 2619	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment and Argument

1. This communication is in response to applicant's 9/25/2007 Amendment in the application of Bugenhagen et al. for a "Congestion handling in a packet communication system" filed 01/26/2004. The amendment and response has been entered and made of record. Claims 1-28 are pending in the application.
2. Applicant's remarks and argument to the rejected claims are insufficient to distinguish the claimed invention from the cited prior arts or overcome the rejection of said claims under 35 U.S.C. 103 as discussed below. Applicant's argument with respect to the pending claims have been fully considered, but they are not persuasive for at least the following reasons.
3. In response to Applicant's argument that the reference does not teach or reasonably suggest the functionality upon which the Examiner relies for the rejection. The Examiner first emphasizes for the record that the claims employ a broader in scope than the Applicant's disclosure in all aspects. In addition, the Applicant has not argued any narrower interpretation of the claim limitations, nor amended the claims significantly enough to construe a narrower meaning to the limitations. Since the claims breadth allows multiple interpretations and meanings, which are broader than Applicant's disclosure, the Examiner is required to interpret the claim limitations in terms of their broadest reasonable interpretations while determining patentability of the disclosed invention. See MPEP 2111. In other words, the claims must be given their broadest reasonable interpretation consistent with the specification and the

interpretation that those skilled in the art would reach. See *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000), *In re Cortright*, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999), and *In re American Academy of Science Tech Center*, 2004 WL 1067528 (Fed. Cir. May 13, 2004). Any term that is not clearly defined in the specification must be given its plain meaning as understood by one of ordinary skill in the art. See MPEP 2111.01. See also *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989), *Sunrace Roots Enter. Co. v. SRAM Corp.*, 336 F.3d 1298, 1302, 67 USPQ2d 1438, 1441 (Fed. Cir. 2003), *Brookhill-Wilk 1, LLC v. Intuitive Surgical, Inc.*, 334 F.3d 1294, 1298 67 USPQ2d 1132, 1136 (Fed. Cir. 2003). The interpretation of the claims by their broadest reasonable interpretation reduces the possibility that, once the claims are issued, the claims are interpreted more broadly than justified. See *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). Also, limitations appearing in the specification but not recited in the claim are not read into the claim. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Therefore, the failure to significantly narrow definition or scope of the claims and supply arguments commensurate in scope with the claims implies the Applicant intends broad interpretation be given to the claims. The Examiner has interpreted the claims in parallel to the Applicant in the response and reiterates the need for the Applicant to distinctly define the claimed invention.

4. Applicant's argument with respect to the rejected claims that the cited references fails to disclose or suggest the limitation "*state of congestion in the call processing system*" as claimed. However, the references are described herein for the teaching of congestion control of the exchange of data over an Internet Protocol (IP) network. The Applicant's attention is

directed to the Fig. 8 of US#6,912,214, in which Addagatla et al. (US#2005/0157646) disclose an exemplary SIP packet illustrated in Fig. 8 comprised of a method name 802 (e.g., "Invite"), a request URI 804, (*the Request-URI is a Uniform Resource Identifier and identifies the resource upon which to apply the request*), headers 806, and message payload 808. In one embodiment of the invention, information about the bandwidth connection of the source 602, the destination 604, or any packet-processing platforms (not shown) that handle the communications between the source 602 and destination 604 is included in the header 806. The bandwidth connection of the destination 604 is included in the header 806 of the return message. Also, information about the bandwidth of packet processing platforms in the network 606 is returned to the source 602. Therefore, the source 602 will have bandwidth information about itself, the destination 604 and the network 606 between the source 602 and the destination 604 includes congestion notification (*state of congestion information in the call processing system in response to the call request message*). The source 602 may then set a bandwidth limit ("throttle value") that is at the lowest value of bandwidth connection or throughput of the source 602, destination 604 or network 606 ([0073] plus).

It's noted that, the congestion control may be implemented between any two network nodes where regulation of a data flow is desired to prevent a device overload from occurring. In order to provide regulation of a data flow, congestion control states are used where each state regulates the data flow according to desired specifications. Transitions may occur from one state to another state in response to messages that include congestion information detected at a network node. The network node may be any applicable device in a communication system as one practiced in the art would appreciate. Furthermore, the state of congestion may be a state of

actual congestion (e.g., more than a threshold level of call requests arriving at one or more gateways in a region) or a state of potential congestion (e.g., the occurrence or existence of an event or a situation such as a natural disaster or state of emergency that may directly or indirectly cause a signaling backlog). It's also noted that, a standard mechanism for general congestion situations is based on that the node is associated with a congestion level (CL), being a measure of the present overload of the node. Within each CL, there are a number of sublevels, congestion sublevels (CSL) available for making a smooth transition between conditions relevant for the different main CL:s. Each message is assigned a congestion priority (CP) set by the system and depending on the nature of the call request. Such a procedure is recommended in SCCP, ITU-T recommendation Q.714.

Since no substantial amendments have been made and the Applicant's arguments are not persuasive, the claims are drawn to the same invention and the text of the prior art rejection can be found in the previous Office Action. Therefore, the Examiner maintains that the references cited and applied in the last office actions for the rejection of the claims are maintained in this office action.

Claim Rejections - 35 USC ' 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1-28 are rejected under 35 U.S.C.103(a) as being unpatentable over Addagatla et al. (US#2005/0157646) in view of Das et al. (US#2005/0070230).

With respect to claims 1-2, the references disclose method and system for network congestion control in a packet communication system utilizing the Session Initiation Protocol (SIP) message, according to the essential features of the claims. Addagatla (US#2005/0157646) discloses in Fig. 7 a signaling diagram illustrated a call setup in the packet communication system between source 602 and destination 604, in which the proxy server 612 is capable of receiving and forwarding SIP signaling messages, such as SIP signaling messages to and/or from a network node comprising a fixed terminal operating as an originating SIP client 602. SIP is independent of the packet layer and only requires an unreliable datagram service, as it provides its own reliability mechanism. The embodiments of this invention provide for a bandwidth limit to be established during the SIP session such that the bandwidth of the source 602 is limited (or "throttled") to minimize or prevent congestion caused by a source, network and destination having differing bandwidth connections or throughput (*a SIP message will contain priority*

indicators corresponding to various media resources, or media streams)(See also Figs. 6A-6B and [0069]-[0072]). Addagatla et al. (US#2005/0157646) further teaches an exemplary SIP packet illustrated in Fig. 8 comprised of a method name 802 (e.g., "Invite"), a request URI 804, (the Request-URI is a Uniform Resource Identifier and identifies the resource upon which to apply the request), headers 806, and message payload 808. In one embodiment of the invention, information about the bandwidth connection of the source 602, the destination 604, or any packet-processing platforms (not shown) that handle the communications between the source 602 and destination 604 is included in the header 806. The bandwidth connection of the destination 604 is included in the header 806 of the return message. Also, information about the bandwidth of packet processing platforms in the network 606 is returned to the source 602. Therefore, the source 602 will have bandwidth information about itself, the destination 604 and the network 606 between the source 602 and the destination 604 includes congestion notification. The source 602 may then set a bandwidth limit ("throttle value") that is at the lowest value of bandwidth connection or throughput of the source 602, destination 604 or network 606 ([0073] plus).

However, Addagatla does not disclose expressly wherein processing the priority information in the header of the call request message to determine if the call request message is for a high priority call. In the same field of endeavor, Das et al. (US#2005/0070230) teaches specifically to the Quality of Service (QoS) management and admission control for voice calls of varied classifications or prioritizations in a voice-over IP (VoIP) network, and provide a differentiation in quality based on the priority level of the call as well as provide quality to all calls in the system. The highest priority calls, for instance, must not be blocked, and receive the

best voice quality, even during traffic overloads and IP network congestion. Das teaches in Fig. 3 the flow charts illustrated a series of method steps for processing new voice calls based upon relative priority and network capacity, in which the method 300 starts at step 302 and proceeds to step 304 where Party A sends an invitation message to first softswitch 112.sub.1. The SIP invite message includes the dialed digits of Party B. If such new call is to be indicated as a relatively high priority call (as explained in greater detail below), Party A dials a prefix assigned to such higher priority calls as part of the dialed digits or indicate the priority in the message header field. At step 306, first softswitch 112.sub.1 initiates an authorization check to determine if Party A is registered on the network and is allowed to originate high priority calls. The specific decision step 308 determines whether Party A has specific authorization to create the high priority call. If it is determined (by, for example, prior data base or preset network profiles) that Party A is not authorized to originate a higher priority call, then the method proceeds to step 310 where the new call request is cleared and the method ends at step 312. If Party A is authorized to originate a high priority call, the method proceeds to step 314 where the priority level for the new call is set and a search is performed to determine which softswitch in the network has access to Party B. This step is essentially a mapping function that obtains the edge router serving Party B and making the appropriate network interconnections thereto ([0031]-[0032], [0048]).

It's also noted that the priority access and channel assignment feature in communications is well known in the art, in which the calls from the user devices are prioritized, and the call processing system distinguished between a regular or high priority subscriber. The call processing system may also distinguish between a regular, high or low priority call. As the volume of calls increases on packet networks and the cost for providing service decreases, the

feature of prioritizing calls becomes more and more important to the service providers and the users.

Regarding claims 3-6, 14, Addagatla further teaches the limitation wherein the response message has a header that includes a congestion code indicating the state of congestion in the call processing system (See Fig. 8; [0073]), and to perform the call blocking in response to the congestion ([0075]; See also Fig. 5 of Das et al. [0023]-[0036]).

Regarding claims 7-13, Addagatla further teaches the limitation wherein the call processing system comprises a gateway controller (See Fig. 1B-C, [0046] plus); wherein the call processing system is configured to determine whether the call processing system is in the state of congestion ([0013]-[0015]); wherein the call request message comprises an SIP INVITE message (See Fig. 8; [0073] plus).

Regarding claims 15-28, they are method claims corresponding to the apparatus claims above. Therefore, claims 15-28 are analyzed and rejected as previously discussed with respect to the claims 1-14 above.

One skilled in the art would have recognized the need for effectively and efficiently allocation of QoS resource and network congestion control in a packet communication system, and would have applied Das's novel use of the priority-based quality of service in VoIP into Addagatla's teaching of the network congestion control in the exchange of data over an Internet Protocol (IP) network. Therefore, It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to apply Das' method for management of VoIP communications of various relative priority levels into Addagatla's system and method of

network congestion control by UDP source throttling with the motivation being to provide a method and system for congestion handling in a packet communication system.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The Joseph et al. (US#5,574,977) is cited to show the system and method for providing priority access and channel assignment in a cellular communication system.

The Hosein (US#6,363,052) is cited to show the congestion control in network systems.

The Schuster et al. (US#6,650,619) is cited to show the method and system for facilitating increased call traffic by reducing signaling load in an emergency mode.

The Tomoike et al. (US#6,233,447) is cited to show the mobile communication system and a method of incoming call restriction.

The Hirade (US#2007/0133400) is cited to show the system for receiving call having priority in call regulation method for receiving call having priority, and program thereof.

The Karlsson (US#2006/0251050) is cited to show the call admission control in VoIP systems.

The Haglund (US#2004/0087311) is cited to show the load distribution between nodes in communication networks.

9. **THIS ACTION THIS ACTION IS MADE FINAL.** See MPEP ' 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Phan whose telephone number is (571) 272-3149. The examiner can normally be reached on Mon - Fri from 6:00 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel, can be reached on (571) 272-2988. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2600.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about

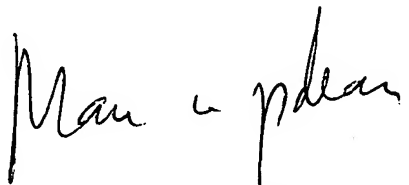
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the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at toll free 1-866-217-9197.

Mphan

Dec. 10, 2007

A handwritten signature in black ink, appearing to read "Man U. Phan". The signature is written in a cursive, flowing style with a large initial "M".

MAN U. PHAN
PRIMARY EXAMINER